

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LAUREL PARK COMMUNITY, LLC, a Washington
limited liability company; TUMWATER ESTATES
INVESTORS, a California limited partnership;
VELKOMMEN MOBILE PARK, LLC, a Washington
limited liability company; and MANUFACTURED
HOUSING COMMUNITIES OF WASHINGTON, a
Washington non-profit corporation,

Plaintiffs,

v.

CITY OF TUMWATER, a municipal corporation,

Defendant.

No. 3:09-cv-05312-BHS

DECLARATION OF
WILLIAM SCHMICKER IN
SUPPORT OF PARTIAL
SUMMARY JUDGMENT

WILLIAM SCHMICKER declares and states as follows:

1. I am over the age of eighteen, competent to testify, and familiar with the facts
herein.

2. I am a partner in plaintiff Tumwater Estates Investors, which owns Tumwater
Estates, a manufactured housing community located in Tumwater, Washington. I have
purchased, sold, and managed manufactured home communities since 1977.

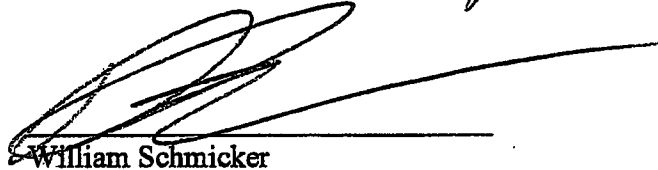
3. My partners and I purchased Tumwater Estates well before Tumwater's
manufactured home park ordinances took effect. My partners and I bought the park in reliance
on the zoning permitted at the time. The property was then zoned *multi-family* high density

1 residential. Until Tumwater's manufactured home park ordinances went into effect, under the
2 zoning then in effect we were permitted to use our property for a variety of uses, including
3 multi-family dwellings, residential planned unit developments, senior housing facilities, and any
4 combination of permitted uses. We were also permitted a number of additional accessory and
5 conditional uses. We anticipated using our property as a mobile home park so long as that use
6 was economically viable. We expected to be able to turn to other economically productive uses
7 at our discretion or to sell it if it became economically unviable. Our plan was to hold onto the
8 property until the highest and best use of the property changed and then we expected to realize
9 our economic expectation by either selling the property or redeveloping it for commercial
10 purposes.
11

12 4. Under Tumwater's existing zoning, we can now only use our property for
13 manufactured home parks, parks, trails, open space areas, support facilities, and child care
14 facilities. We are also permitted to construct one single-family detached residence per existing
15 single lot of record. Our property is situated on approximately 22.44 acres of land within
16 Tumwater and contains 115 mobile home pads. But we would be allowed to construct only one
17 single-family detached residence on the property if we removed the existing manufactured
18 homes. The additional uses to which we are permitted to put our property under the existing
19 zoning are not economically viable uses of the property because some, like parks and trails, earn
20 no income at all. Others, like support and child care facilities, require an investment with little
21 probability of return and licensure to be possible. A limited number of other primarily public or
22 institutional uses, such as churches, cemeteries, and essential public facilities are also possible
23 under the current zoning. But a church or a cemetery is hardly a viable economic use; the
24 possibility of any return on such use is illusory. This is all the more obvious when the value of
25

1 our property and its income-generating ability as a church or a cemetery is compared to its value
2 and income-generating ability when used for multi-family housing. None of the conditional uses
3 permitted under Tumwater's existing zoning are *viable* economic uses of our property, especially
4 when considering that many of those uses would require additional discretionary permitting by
5 Tumwater. Acquiring the necessary permits from Tumwater for such uses seems unlikely. By
6 mandating that Tumwater Estates remain a mobile home park, Tumwater has deprived us of
7 economically viable use of our property and damaged its fair market value.

8 I declare under penalty of perjury under the laws of the State of Washington that the
9 foregoing is true and correct. Executed at Wahat Creek, Clallam this 30th
10 day of January, 2010.

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13 
14 William Schmicker